THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 12939 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed seeking to declare the Memo issued by 1st respondent vide Memo No. 3220/Vig-II (3) 2001-3 dated 5.5.2003 as illegal and arbitrary and consequently to set aside the order dated 29.12.2006 passed by the A.P. Administrative Tribunal in O.A. No. 5618 of 2003.

The petitioner herein filed O.A. 5618 of 2003 before the Tribunal to declare the abovementioned Memo dated 5.5.2003 as illegal and arbitrary and to set aside the same. The Tribunal dismissed the said O.A. Aggrieved, the petitioner filed this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and perused the material available on record.

The case of the petitioner is that on a baseless and frivolous allegation that a whisky bottle was found by the side of his seat, which was denied by him, disciplinary proceedings were initiated against him and the punishment of stoppage of two annual grade increments with cumulative effect was ordered and that the said punishment is illegal and arbitrary and the Tribunal failed to consider

the same. It is also contended that the 2nd respondent is the disciplinary authority, but the Government straightaway initiated disciplinary proceedings and deprived him of his right to appeal. However, the material available on record shows that the ACB officials laid a trap on the allegation of accepting a sum of Rs.1000/- for showing official favour and for possessing liquor bottle and the Government have issued instructions to initiate disciplinary proceedings against the concerned MRO and the petitioner herein. Pursuant to the same, the Joint Collector, Visakhapatnam was appointed as Enquiry Officer vide proceedings dated 15.9.2001. Due procedure was followed and the enquiry report was submitted holding that the charge against the petitioner that he has committed grave misconduct by keeping an unused liquor bottle in his office containing 750 Ml. Liquor which was found in a bag by the side of his seat in his office room at 10.30 a.m. on 12.7.1999 is proved and the said enquiry report was communicated to the petitioner and the petitioner submitted his explanation. Subsequently the Government passed orders vide Memo dated 5.5.2003 imposing the punishment of stoppage of two annual grade increments with cumulative effect. Having regard to the facts and circumstances, it cannot be said that the said punishment is illegal or arbitrary.

The contention of the petitioner that his right to appeal has been deprived of is rightly rejected by the Tribunal in view of Rule

38 of APCS (CC&A) Rules providing review of the original orders passed by the Government in lieu of appeal and also in view of the fact that Rule 38 empowers the Government to pass original order in respect of every member of State service or member of subordinate service.

Thus, we find no error, illegality or irregularity in the order passed by the Tribunal warranting interference of this Court. The writ petition is devoid of merit. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 21-06-2007.

MVB.